



REPLY TO
ATTENTION OF:

Regulatory Division

DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
1455 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94103-1398

JUL 25 2012

SUBJECT: File Number 2008-00399S: Levin-Richmond Terminal Corporation; Maintenance Dredging

LETTER OF MODIFICATION

Mr. Gary Levin
Levin-Richmond Terminal
402 Wright Avenue
Richmond, California 94804

Dear Mr. Levin:

This letter is written in response to Pacific EcoRisk's submittal on your behalf dated June 30, 2011. This submittal requests authorization from the U.S. Army Corps of Engineers to construct a temporary sediment re-handling facility, conduct knockdowns, dredge a trench adjacent to the wharf face, and perform advanced maintenance dredging outside of the trench. Permit 2008-00399S authorizes maintenance dredging of the Levin-Richmond Terminal to a depth of -39 feet mean lower low water (MLLW) plus a two-foot overdepth allowance. Per your request, Permit Number 2008-00399S is hereby modified under the provisions of 33 C.F.R. Section 325.7(b) to include the following activities.

1. Conduct knockdowns (leveling of sediment mounds within the project site) of up to 2,500 cubic yards (cys) per event.
2. Dredging of a twenty foot wide trench adjacent to the wharf face to -45 MLLW plus two feet of overdepth allowance.
3. Advanced maintenance dredging of the project site of the remainder of the project site (outside of the trench) to a design depth of -41 feet MLLW plus two feet of overdepth allowance.

The project and trench areas are shown on the attached four drawings labeled "USACE File: 2012-00399S, Levin-Richmond Terminal Maintenance Dredging, Modification 1" dated May 2012 (enclosure 1). Additional special permit conditions applicable to the modifications are enclosed (enclosure 2). Except for the above modifications, all terms and conditions of the original permit remain in effect.

The temporary rehandling facility does not require authorization. Pacific EcoRick's June 30, 2011 submittal included the Levin Richmond Terminal Corporation Maintenance Dredging Dredge Materials Re-handling Area On-site Maintenance and Operations Plan (enclosure 3).

The temporary re-handling facility described in this plan would be constructed on the asphalt surface of the wharf in one of two areas which are neither wetlands nor waters of the United States and, therefore are not subject to Corps jurisdiction. Additionally, since the Levin-Richmond Terminal is designed to contain all run-off on-site there should not be any return water to the adjacent waterways requiring a Corps permit. The two potential locations for of the re-handling facility are shown on the enclosed map (enclosure 4) titled, "Jurisdictional Delineation Pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. Levin-Richmond Terminal Dredge Materials Re-handling Area adjacent to the Lauritzen Canal, in Richmond, Contra Costa County, California." (in one sheet dated May 25, 2012). This map indicates that there are no jurisdictional waters of the U.S. located within the proposed re-handling facility locations.

This determination does not obviate the need to obtain other Federal, State, or local approvals for the temporary on-site dredged material re-handling facility required by law. You will still have to comply with the Federal Endangered Species Act (ESA) (16 U.S.C. Section 1531 et seq.). Even though this activity is not prohibited by, or otherwise subject to regulation under Section 404 of the Clean Water Act, the take of a threatened or endangered species as defined under the ESA is not authorized. In the absence of a separate authorization from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal takes of protected species are a violation of the ESA. Similarly, the appropriate State of California, Regional Water Quality Control Board may still regulate your proposed activity because of impacts to a "water of the State". Therefore, you should also contact appropriate Federal, State and local regulatory authorities to determine whether your activity may require other authorizations or permits.

Should you have any questions regarding the modifications or the re-handling facility, please call Debra O'Leary at (415) 503-6807. Please address all correspondence to the Regulatory Division and refer to the File Number 2008-00399S.

Sincerely,



John K. Baker, P.E.
Lieutenant Colonel, U.S. Army
Commander and District Engineer

Enclosures

Copies Furnished:

Pacific EcoRisk, Fairfield, CA
US CG Alameda, CA
US EPA, San Francisco, CA
US FWS, Sacramento, CA
US NMFS, Santa Rosa, CA
CA DFG, Santa Rosa, CA
CA RWQCB, Oakland, CA
CA SLC, Sacramento, CA
SF BCDC, San Francisco, CA